

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America)

v.)

Hilman Cooper)

Case No: 5:05-CR-25-1H

USM No: 24959-056

Date of Previous Judgment: August 3, 2005)

(Use Date of Last Amended Judgment if Applicable))

Defendant's Attorney Samuel J. Randall, IV

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of the _____ defendant _____ under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and the court having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____ months.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: _____ Amended Offense Level: _____

Criminal History Category: _____ Criminal History Category: _____

Previous Guideline Range: _____ to _____ months Amended Guideline Range: _____ to _____ months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ Other (explain) :

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III. ADDITIONAL COMMENTS

The defendant was subject to a mandatory minimum term of imprisonment, which was not mitigated by application of 18 U.S.C. § 3553(f) or 5C1.2 (Safety Valve). Therefore, while the amendment is applicable to the defendant, it does not have the effect of lowering the defendant's guideline range because the low end of the revised range is the mandatory minimum sentence. Therefore, the defendant's motion is denied.

Except as provided above, all provisions of the judgment dated August 3, 2005 shall remain in effect.

IT IS SO ORDERED.

Order Date: 11/29/10



Judge's signature

Effective Date: _____
(if different from order date)

Malcolm J. Howard, Senior U.S. District Judge

Printed name and title